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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,867	03/03/2004	Hugues Cheron	111393.01	3122
25944	7590	03/21/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			NEGRON, ISMAEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/790,867	Applicant(s) CHERON ET AL.	
	Examiner Ismael Negron	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on February 10, 2005 has been entered. Claim 9 has been amended. No claim has been added or cancelled. Claims 1-10 are still pending in this application, with claims 1 and 10 being independent.

Claim Objections

2. Claim 9 is objected to because of the following informalities: line 3 should read "the outside skin in a permanent and ~~on-removable~~ irremovable manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over HANEDA ET AL. (U.S. Pat. 4,996,634) in view of SUZUKI (U.S. Pat. 4,809,144).

HANEDA ET AL. discloses a car bumper having:

- **an outside skin formed by a wall of plastic material (as recited in claims 1 and 10), Figure 3, reference number 1;**

Art Unit: 2875

- **a light unit (as recited in claims 1 and 10), Figure 3, reference number 10;**
- **the light unit having a housing (as recited in claims 1 and 10), Figure 3, reference number 10;**
- **the outside skin of the bumper forming at least part of the lighting unit (as recited in claims 1 and 10), Figure 3; and**
- **the outside skin of the bumper forming the housing (as recited in claims 2 and 8), Figure 3.**

HANEDA ET AL. discloses all the limitations of the claims, except:

- the light unit having a glass for enabling light emitted by the light source to be diffused (as recited in claims 1 and 10);
- the glass being applied to the housing and fixed thereto (as recited in claim 3);
- the glass being snap-fastened to the housing (as recited in claim 4);
- the light unit also including a gasket providing a seal between the glass and the housing (as recited in claim 4);
- the glass having an annular skirt (as recited in claim 5);
- the housing having a peripheral groove for receiving the annular skirt and having a bottom surface lined by the gasket (as recited in claim 5);
- the housing including a vent for ventilating the inside volume (as recited in claim 6);

- the light unit having light emitting diodes (LED) as the light source (as recited in claim 7); and
- the glass being the part of the lamp formed by the outside skin (as recited in claim 9).

SUZUKI discloses a car headlamp having:

- **a housing (as recited in claims 1 and 10), Figure 1, reference number 1;**
- **a glass (as recited in claims 1 and 10), Figure 1, reference number 2;**
- **the glass being applied to the housing and fixed thereto (as recited in claim 3), as seen in Figure 1;**
- **the headlamp including a gasket providing a seal between the glass and the housing (as recited in claim 4), Figure 1;**
- **the glass having an annular skirt (as recited in claim 5), Figure 1;**
- **the housing having a peripheral groove for receiving the annular skirt and having a bottom surface lined by the gasket (as recited in claim 5), Figure 1;**
- **the housing including a vent for ventilating the inside volume (as recited in claim 6), Figure 1, reference number 4;**
- **the glass being permanently attached to the housing (as recited in Claim 9), as evidenced by Figure 1.**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the headlamp of SUZUKI as the light unit of the bumper of teachings of HANEDA ET AL. to prevent the interior of the light unit to accumulate moisture, as per the teachings of SUZUKI.

Regarding the use of LED as the light source (as recited in claim 7), the Examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of Jones et al.. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

Regarding the glass being part of the outer skin (as recited in claim 9), the Examiner takes Official Notice that the using such glass as part of the outer skin is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the glass of JONES et al. as part of the outside skin of the bumper/lamp combination of HANEDA et al. and SUZUKI. One would have been motivated maintain the aesthetic design profile of the outer skin and to provide a smoother surface with lower drag.

Response to Arguments

4. Applicant's arguments filed February 10, 2005 have been fully considered but they are not persuasive.

5. Regarding the Examiner's rejection of claims 1 and 10 under 35 U.S.C. 103(a) as being unpatentable over HANEDA ET AL. (U.S. Pat. 4,996,634) in view of SUZUKI (U.S. Pat. 4,809,144), the applicant argues that the cited combination of references fail to disclose individually, or suggest in combination, all the features of the claimed invention, specifically a car bumper and light unit having a glass for enabling light to be diffused. The applicant further argues that the proposed combination would not have been obvious to one of ordinary skill in the art since SUZUKI fails to provide HANEDA et al. with a glass capable of resisting the deformations anticipated by HANEDA et al. in the event of a collision.

6. In response to applicant's argument that HANEDA ET AL. and SUZUKI fail to disclose individually, or suggest in combination, all the features of the claimed invention, the applicant is advised that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In this case, as detailed in Section 3 of the instant Office Action, HANEDA et al. discloses in Figure 3 a car bumper having an outside skin 1 formed by a plastic material, and lamp housing 10 formed integrally with such skin. The lamp housing 10 is open at one end exposing a lamp bulb and socket 17 to the outside. SUZUKI discloses a car lamp having a lamp housing 1 including a lamp bulb 3 and socket, the lamp housing being closed at one end by a lens 2. Using the lens of SUZUKI to close the open end of the lamp housing of HANEDA et al. would have flown naturally to one of ordinary skill in the art to protect the interior of such housing and the lamp bulb and socket from moisture. Survival of the lens of SUZUKI in the event of a collision, while desired, would not be a requirement of the proposed combination. One of ordinary skill in the art would have recognized that, even if such breakable lens of SUZUKI were to be directly incorporated into the integral bumper and lamp housing of HANEDA, such patented structure would still performed as intended (protecting the lamp housing in the event of a collision), while also protecting the interior of the lamp housing from exterior contaminants during normal operation.

In addition, as the applicant is surely aware, the use of lenses for closing lamp housing of motor vehicles (specifically cars) is not only old and well known, but the standard practice in the vehicle illumination art, for protecting the interior of such lamp housings from damage due to moisture and other external agents.

7. The applicant is further advised that it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation, but only

requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. In this case the claimed language reciting “a housing suitable for containing at least one light source” and “a glass enabling light emitted by said light source to be diffused” fail to positively limit the claim invention. Any housing will meet the claimed limitation, as will any lens including those having no light diffusing properties.

8. With respect to claims 2-9 the applicant presents no arguments, except stating that such claims are dependent upon Claim 1 and would be allowable when/if the independent claim is allowed.

Conclusion


9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached at (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


JOHN ANTHONY WARD
PRIMARY EXAMINER


Inr

March 14, 2005